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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES,

Plaintiff,

v.

DANIEL OSORNO,

Defendant.

No. 20-0040-WFN

SENTENCING MEMORANDUM

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Daniel Osorno has resolved all issues with the draft Presentence Investigation Report and has no further objections. He asks this Court to accept the 11(c)(1)(C) plea agreement.

A twenty-eight year sentence also deters. Mr. Osorno is 53 years old. Even with good time, he will not be released for over two decades. And any longer sentence would serve little purpose. According to a March 2018 report from the U.S. Sentencing Commission, longer prison sentences have no impact on recidivism rates. *See Recidivism Among Federal Offenders Receiving Retroactive Sentencing Reductions* (March 2018) (“The recidivism rates were virtually identical for offenders who were released early through retroactive application of the FSA

1 Guideline Amendment and offenders who had served their full sentences before the
2 FSA guideline retroactivity took effect.”).

3 That twenty-eight year sentence will not be significantly shortened. Because
4 this is a production of child pornography conviction, Mr. Osorno will not be eligible
5 for an RDAP or FSA reduction.

6 In addition to quantity of time, there is also quality of time. Since December
7 2019, Mr. Osorno has been incarcerated at the Spokane County Jail, where he is on
8 lockdown 23 hours per day during the week, and 24 hours per day during the
9 weekend. Harsh pretrial conditions have served as a basis for a variance (or, in this
10 case, a factor supporting the 11(c)(1)(C) sentence). *See, e.g., U.S. v. Pressley*, 345
11 F.3d 1205 (11th Cir. 2003) (remanding to district court and confirming that the court
12 may impose its proposed departure of 24 months based on the significant time the
13 defendant spent in pretrial confinement, primarily on 23-hour per day lockdown);
14 *see also U.S. v. Ortiz*, 2007 WL 4208802 (D. N.J. Nov. 27, 2007) (explaining
15 variance for multiple defendants based on pretrial confinement at county jail). This
16 is tough time. And it will not be getting much easier, as Mr. Osorno enters the BOP
17 as a sex offender. All-in-all, this is a significant sentence.

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Dated: February 22, 2021

s/Andrea K. George

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MOTION TO CONTINUE

1 I certify that on February 21, 2021, I electronically filed the foregoing with
2 the Clerk of the Court using the CM/ECF System, which will notify Assistant
3 United States Attorneys: David Herzog.

4 *s/Andrea K. George*

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